Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

THOMAS M. SANDERS,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

On Petition For Writ Of Certiorari
To The United States District Court
For The Eastern District Of California

PETITION FOR WRIT OF CERTIORARI

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Introduction. Courts of appeals have a duty to discourage prosecutors from employing fundamentally unfair tactics. Here, the prosecutor repeatedly and falsely told the jury that the defendant lied to them in testimony at a perjury trial the prosecutor told them was a "credibility fight." In a post-trial response, he boasted that there was the "distinct possibility" that the jury based their verdict on this false assertion. The prosecutor later admitted he was "wrong," however, and the Office of Professional Responsibility found that he did misrepresent the record. Questions presented here ask if the appeals court ignored precedent in excusing the misconduct.

QUESTIONS PRESENTED

1. Did the court depart from Supreme Court precedent and conflict with decisions of other circuits in ruling that the prosecutor's admittedly and independently proven false statements in closing argument, attacking the defendant's credibility, were "a reasonable inference based on evidence presented at trial" and not a denial of Due Process?

2. Did the court depart from its precedent in not finding error where the prosecutor repeatedly placed his personal assurances of veracity behind the government's witnesses' credibility, implying that if the government's witnesses didn't lie, the jury must conclude that the defendant lied?

3. Did the court enter a decision in conflict with other circuits by refusing to consider a claim of ineffective assistance of counsel for defense counsel's failure to object to the prosecutor's misrepresentations of testimony and improper vouching for the government's witnesses?

4. Did the court depart from precedent in other circuits by holding that the standard instruction to the jury not to consider the attorneys' statements as evidence excused the prosecutor's improper attacks on the defendant's credibility?

PARTIES TO THE PROCEEDING

All parties to this proceeding appear in the caption of the case.

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